

STATE OF DELAWARE

OFFICE OF AUDITOR OF ACCOUNTS

HOUSE OF REPRESENTATIVES

TUITION REIMBURSEMENT

SPECIAL INVESTIGATION

FIELDWORK END DATE: JANUARY 27, 2010

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State of Delaware
Office of Auditor of Accounts
R. Thomas Wagner, Jr. – CFE, CGFM, CICA
At a Glance

Working Hard to Protect YOUR Tax Dollars

Why We Did This Review

The Office of Auditor of Accounts (AOA) received the following hotline allegation(s) regarding the House of Representatives:

- Improper use of State funds in the amount of about \$12,000 for tuition reimbursement payments to former Representative Vincent A. Lofink.
- No House policies regarding tuition reimbursement for a full-time member of the General Assembly.

Background

The House of Representatives is composed of 41 members, each of whom is elected to a two-year term. Democrats currently hold 24 of these seats and 17 are held by Republicans. There is no limit to the number of terms that a Representative may serve.

The Speaker of the House presides over the House of Representatives. The Speaker is elected by the majority party caucus followed by confirmation of the full House through the passage of a House Resolution. The Speaker is the chief leadership position of the body. Their respective party caucuses elect the other House leaders.

Representatives must be citizens of the United States, have lived in Delaware for three years, been a resident of their respective district for at least one year preceding their election and must be at least 24 years old by the time of their election.

For further information on this release, please contact:

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House of Representatives- Tuition Reimbursement

What We Found

AOA completed a review of tuition reimbursement payments from the House of Representatives for the period of July 1, 2005 through June 30, 2009 and determined the following:

- Vincent A. Lofink was a full-time member of the General Assembly and a full-time employee at New Castle County Vo-Tech (NCCVT).
- The House of Representatives does not have a tuition reimbursement policy that applies to General Assembly members.
- Vincent A. Lofink was the only Legislator to receive reimbursement during the period of our review.
- The House of Representatives reimbursed Vincent A. Lofink \$2,943 in Fiscal Year 2007 and \$9,181.50 in Fiscal Year 2008, for a total of \$12,124.50.
- According to NCCVT's tuition reimbursement policy, if Vincent A. Lofink requested reimbursement he would have been reimbursed a maximum amount of \$4,224 during Fiscal Years 2007 and 2008 combined.
- The General Assembly paid Vincent Lofink \$12,124.50 for tuition reimbursement although there are no Policies, Procedures, or applicable laws that would have allowed this.

What We Recommend

1. The General Assembly should consider seeking reimbursement from Mr. Lofink the \$12,124.50 that was paid because no policies or laws allowed this reimbursement.
2. The House of Representatives should develop an internal written policy and procedure regarding tuition reimbursement for General Assembly members. The policies should include the following:
 - Costs and related fees that are reimbursable.
 - Documentation that the employee must submit in order to be reimbursed (i.e., college invoice, passing grade, etc.).
 - Appropriate tuition reimbursement approval forms to be completed.
 - Repayment to the State for reimbursement if employee leaves within a specific time period.
 - A maximum reimbursement amount per fiscal year.
3. The House should require adequate, detailed support for all transactions by maintaining documentation of all approvals for tuition reimbursement. Also, such support documentation should be retained in accordance with State record retention laws.

Please read the complete report for a full list of findings/recommendations and to review the House of Representatives response to our findings.

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AUDIT AUTHORITY

Title 29, Del. C. c. 29 authorizes the Auditor of Accounts to file written reports containing:

1. Whether all expenditures have been for the purpose authorized in the appropriations;
2. Whether all receipts have been accounted for and paid into the State Treasury as required by law;
3. All illegal and un-businesslike practices;
4. Recommendations for greater simplicity, accuracy, efficiency, and economy; and
5. Such data, information, and recommendations as the Auditor of Accounts may deem advisable and necessary.

ALLEGATION AND BACKGROUND

ALLEGATION

The Office of Auditor of Accounts (AOA) received the following hotline allegation(s) regarding the House of Representatives:

- Improper use of State funds for tuition reimbursement payments made to former Representative Vincent A. Lofink.
- Non-compliance with House policies regarding tuition reimbursement.

BACKGROUND

The House of Representatives is composed of 41 members, each of whom is elected to a two-year term. Democrats currently hold 24 of these seats and 17 are held by Republicans. There is no limit to the number of terms that a Representative may serve.

The Speaker of the House presides over the House of Representatives. The Speaker is elected by the majority party caucus followed by confirmation of the full House through the passage of a House Resolution. The Speaker is the chief leadership position of the body. Their respective party caucuses elect the other House leaders.

Representatives must be citizens of the United States, have lived in Delaware for three years, been a resident of their respective district for at least one year preceding their election and must be at least 24 years old by the time of their election.

OBJECTIVES, SCOPE, & METHODOLOGY

OBJECTIVES

The objective of the investigation was to determine the propriety of tuition reimbursement payments made by the State House of Representatives to former Representative Vincent A. Lofink.

SCOPE

The scope of the investigation included a review of all tuition reimbursement payments made to members of the House of Representatives for the period of July 1, 2005 through June 30, 2009.

The investigation was performed in accordance with the President's Council on Integrity and Efficiency, *Quality Standards for Investigations*.

METHODOLOGY

Investigative techniques included:

- Interviews and inquiry.
- Inspection and confirmation of documentation.

CONCLUSIONS

Allegation

The House of Representatives improperly used of State funds for tuition reimbursement payments to former Representative Vincent A. Lofink and did not comply with House policies regarding tuition reimbursement.

Results of Testing

Vincent A. Lofink was a full-time Elected Official and also a full-time employee at New Castle County Vo-Tech (NCCVT during the period of our review [July 1, 2005 though June 30, 2009]).

The House of Representatives Employee Handbook states:

"Educational Assistance

*Work-related college and/or university courses taken by **full-time staff members** may be eligible for reimbursement (tuition only) provided the staff member has obtained prior approval from the Speaker of the House in writing. Such training must be of direct value to the House of Representatives, be limited to providing knowledge or skills, which are not available through in- service training, and be useful to enhancing the services provided by such staff member to the House.*

Education reimbursement shall be administered consistent with the following guidelines:

1. ***Only full-time members of staff for the House are eligible;***
2. *Tuition costs and related fees are reimbursable. Parking, books, materials and mileage are not;*
3. *Reimbursement will be made only upon satisfactory completion of the course (with a passing grade of at least a "C");*
4. *Receipts must be submitted for all costs and fees that are to be reimbursed; and*
5. *Any staff member who leaves the employ of the House within six months following the date of satisfactory completion of the course shall reimburse the State for the full amount of the reimbursement that has been provided.*

Please see the House Financial Officer for further information. "

The above policy applies to full-time staff members. There is no separate policy for members of the General Assembly.

Section 9.19 of NCCVT's Education Association Contract states:

"The District shall reimburse all personnel for course completion commensurate with the tuition cost for one and one-half three-credit graduate courses at the University of Delaware for Delaware residents for required course work needed for teacher certification, course work related to the employee's content area, or for course work needed by the vocational staff to obtain a

CONCLUSIONS

Bachelors Degree. Such reimbursement shall be under prescribed requirements and with the prior approval of the District. Additional tuition reimbursement from State funds may also be provided in accordance with State rules and regulations."

Although the above mentioned policy states reimbursement is for one and one-half three-credit graduate courses at the University of Delaware, if the employee does not attend the University of Delaware, they will still be reimbursed for tuition. However, the reimbursement is based on the University of Delaware rates. Per NCCVT management, although this is not clear in the contract, all employees are well aware that this is a practice.

AOA reviewed all tuition reimbursement payments to Vincent A. Lofink for the period of July 1, 2005 through June 30, 2009. He was reimbursed a total of \$12,124.50 (\$2,943 in FY07 and \$9,181.50 in FY08) for graduate level coursework at Wilmington University. The former House Speaker and the former Financial Officer approved all payments via state payment vouchers (PVs).

AOA completed an analysis of tuition reimbursement payments made to Vincent A. Lofink from the House of Representatives as compared to possible reimbursement from NCCVT. The analysis conducted is based on the assumption that NCCVT would have approved such tuition reimbursement sought by Mr. Lofink. If tuition reimbursements were obtained through NCCVT, following the policy in place, Mr. Lofink would have received a maximum of \$5,418 during FY07 and FY08. Thus, leaving a balance of \$6,706.50 to be paid out of pocket by Mr. Lofink. If Mr. Lofink received tuition reimbursement entirely from NCCVT, it would have taken him an additional two (2) years to complete the program.

AOA also completed a review of tuition reimbursement payments to other House of Representative Legislators for the period of July 1, 2005 through June 30, 2009 and determined Vincent A. Lofink was the only Legislator reimbursed for tuition during that period.

Conclusion

Substantiated.

FINDINGS & RECOMMENDATIONS

Finding #1 – Policies & Procedures

Criteria

The State of Delaware *Budget and Accounting Manual* Chapter II states, "A well designed system of controls must include written policies and procedures to ensure that each control objective is met."

Internal Control - Integrated Framework, published by COSO, defines control activities as policies and procedures that help ensure management directives are carried out. Control activities occur throughout an organization, at all levels and functions, and include a wide range of activities, such as authorizations, verifications, reconciliations, reviews of operating performance, security of assets, and segregation of duties. To ensure control activities meet the objectives of management, written policies and procedures need to be established, communicated to employees and documented.

Condition

The current House policy regarding tuition reimbursement applies only to full-time staff members. There are no separate policies for members of the General Assembly that would allow any payments for tuition reimbursements to members of the General Assembly.

Cause

Management did not document policies and procedures regarding tuition reimbursement for General Assembly members.

Effect

The General Assembly paid for tuition reimbursements for a member of the General Assembly that were counter to the policies in place at the time of the reimbursement. Lack of policies and procedures regarding tuition reimbursement for those who have received the reimbursement could possibly lead to the appearance of favoritism for those individuals.

Recommendation

1. The House of Representatives should consider seeking reimbursement for the tuition reimbursements (\$12,124.50) paid to Mr. Lofink.
2. The House of Representatives should develop an internal written policy and procedure regarding tuition reimbursement for General Assembly members. The policies should include the following:
 - Costs and related fees that are reimbursable.
 - Documentation that the employee must submit in order to be reimbursed (i.e. college invoice, passing grade, etc.).
 - Appropriate tuition reimbursement approval forms completed.

FINDINGS & RECOMMENDATIONS

- Repayment to the State for reimbursement if employee leaves within a specific time period.
 - A maximum reimbursement amount per fiscal year.
3. The House of Representatives should consider adding the following provisions to the current policy regarding tuition reimbursement for full-time staff members:
- A maximum reimbursement amount per fiscal year.
 - Appropriate tuition reimbursement approval forms to be completed.

Auditee Response

1. The Speaker of the House sent a letter to former Rep. Lofink on February 3, 2010, requesting that he reimburse the state for the full \$12,124.50 tuition reimbursement he received. A copy of the letter is attached.
2. Such an internal written policy is not necessary because the Speaker of the House has eliminated any such reimbursement program for tuition reimbursement, be it staff or legislator.
3. Such additional provisions are not required because the Speaker of the House has eliminated any such reimbursement program for tuition reimbursement, be it staff or legislator.

Finding #2 – Lack of Documentation

Criteria

The State of Delaware *Budget and Accounting Manual*, Chapter II Internal Control states, "Proper supporting documentation for all financial documents is required and is defined as invoices, logs, worksheets, memos, or additional documentation that provides support for the purpose and amount of the transaction."

Condition

Documentation of the approval of the tuition reimbursement, separate of the payment voucher, was not maintained.

Cause

Weak controls, including a lack of management approval and review, contributed to the lack of support and incorrectly recorded transactions.

Effect

Lack of adequate documentation raises questions about the validity of transactions and increases the possibility that unauthorized transactions may occur.

FINDINGS & RECOMMENDATIONS

Recommendation

The House should require adequate, detailed support for all transactions by maintaining documentation of all approvals for tuition reimbursement. Also, such support documentation should be retained in accordance with State record retention laws.

Auditee Response

Since taking control of the House of Representatives in November 2008, the House Majority Caucus has taken numerous steps to ensure better record keeping and documentation for all financial documents. Since the change in party control, the House has followed the state's policies and procedures for Accounts Payable, which requires that all purchase orders, bills, invoices, check vouchers, bids, payment authorizations, reports of receipt of goods or services and shipping tickets be retained at the agency for five years and only destroyed after a successful audit.

DISTRIBUTION OF REPORT

Copies of this report have been distributed to the following public officials:

The Honorable Jack A. Markell, Governor, State of Delaware

The Honorable Russell T. Larson, Controller General, Office of the Controller General

The Honorable Joseph R. Biden, III, Attorney General, Office of the Attorney General

Cabinet Secretaries/Legislative Officials

The Honorable Robert F. Gilligan, Speaker of the House, Delaware House of Representatives

Officials of Audited Entity

Lorraine Sexton, Financial Officer, Delaware House of Representatives